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Kivin Varghese

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PATENTBEST

4600 ADELINE ST., #101

EMERYVILLE, CA 94608

EXAMINER

CHIO, TAT CHI

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/709,221	Applicant(s) VARGHESE, KIVIN	
	Examiner TAT CHI CHIO	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28,34,35 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28,34,35 and 37-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/8/2008 has been entered.

Response to Arguments

1. Applicant's arguments filed 9/8/2008 have been fully considered but they are not persuasive.

Applicant argues that Kikuchi does not teach “the interim storage device in data communication with the recording device so that the interim storage device is receiving recorded audio/video data while the recording device is recording audio/visual data”

In response, the examiner respectfully disagrees. Kikuchi teaches the interim storage device in Fig. 40. The temporary storage in Fig. 40 is equivalent to the interim storage device, which is able to receive recorded data while the recording device is recording the audio/video data.

Applicant argues that Kikuchi does not teach downloading marked segments of recorded audio/video data from the interim storage device to a second storage device,

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different from the interim storage device, while using as a selection criterion for downloading that marked segments get downloaded.

In response, the examiner respectfully disagrees. Kikuchi teaches that the data is being downloaded from the temporary storage device to a disc drive and a disc that are equivalent to the second storage device. Kikuchi further teaches an archive flag in Fig. 55.

Applicant argues that Kikuchi does not teach allowing the interim storage device to overwrite segments of recorded audio/video data but not allowing the interim storage device to overwrite marked segments of recorded audio/visual data that have not been downloaded to the second storage device.

In response, the examiner respectfully disagrees. Kikuchi teaches in Fig. 40 that the temporary storage holds the audio/visual data. When the disc drive is ready to record the data stored in the temporary storage, the audio/visual is being transferred from the temporary storage to the disc drive. Therefore, after the audio/visual data that have been recorded by the disc drive, they are allowed to overwrite with the incoming data, and the audio/visual data that have not been recorded by the disc drive are not allowed to overwrite with the incoming data.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The limitation “while using as a selection criterion for downloading that marked segments get downloaded” in claim 15 does not particularly point out what is being used as a selection criterion for downloading that marked segments get downloaded. The phrase “may be” in the limitation of claim 21 “the at least one tag has tag data and the characters in the tag data may be provided by user input” does not particularly point out whether the tag and characters in the tag data is provided by user input or not.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 15-17, 19-24, 26-28, 34, 35, and 37-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Kikuchi et al. (US 6,553,180 B1).

Consider claim 15, Kikuchi et al. teach a method of archiving selected segments of recorded audio/visual data, comprising: recording audio/visual data continuously using a recording device (Fig. 30, the user is able to record video continuously with a camera); storing recorded audio/visual data on an interim storage device, the interim storage device in data communication with the recording device so that the interim storage device is receiving recorded audio/visual data while the recording device is

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recording audio/visual data (50, 30, 49, 48, 32, 34A, and 36 of Fig. 40); allowing a user to mark selected segments of the recorded audio/visual data so as to identify portions of the recorded audio/visual data of significance to the user essentially in real-time without interrupting the recording (Fig. 30, the user is able to mark the TV shows from the TV broadcast or the user is able to mark the scenes that are of significance to him/her in the camera recording.); allowing the user to associate at least the marked selected segments of audio/visual data with tag data identifying the content of the marked segments (col. 59, line 60-col. 60, line 12); and downloading marked segments of recorded audio/visual data from the interim storage device to a second storage device, different from the interim storage device, while using as a selection criterion for downloading that marked segments get downloaded (Fig. 40 and Fig. 55).

Consider claim 16, Kikuchi et al. teach the method wherein the user marks selected segments of the recorded audio/visual data while the audio/visual data is stored on the interim storage device (Fig. 30).

Consider claim 17, Kikuchi et al. teach the method further comprising allowing the interim storage device to overwrite segments of recorded audio/visual data but not allowing the interim storage device to overwrite marked segments of recorded audio/visual data that have not been downloaded to the second storage device (Fig. 40 shows that the A/V data is stored into a disc. The temporary storage holds the audio/visual data. When the disc drive is ready to record the data stored in the temporary storage, the audio/visual is being transferred from the temporary storage to the disc drive. Therefore, after the audio/visual data that have been recorded by the disc

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drive, they are allowed to overwrite with the incoming data, and the audio/visual data that have not been recorded by the disc drive are not allowed to overwrite with the incoming data).

Consider claim 19, Kikuchi et al. teach the method further comprising allowing user to associate at least one tag with a marked segment (Fig. 30 and Fig. 31).

Consider claim 20, Kikuchi et al. teach the method wherein the recording device is mounted to a stationary point, a mobile point, or a user (Fig. 30, the user is able to carry the camera when he/she records).

Consider claims 21 and 43, Kikuchi et al. teach the method the at least one tag has tag data and the characters in the tag data may be provided by user input (col. 59, line 60-col. 60, line 12).

Consider claim 22, Kikuchi et al. teach the method further comprising overwriting at least some unmarked segments of audio/visual data when the interim storage device becomes full (Fig. 40, the user is able to select contents to erase from the DVD-RW and col. 48, line 64-col. 49, line 2).

Consider claim 23, Kikuchi et al. teach the method wherein allowing the user to mark the selected segments of the recorded audio/visual data comprises allowing the user to mark a beginning of each selected segment and an end of each selected segment (Fig. 30 shows that the user is able to mark the beginning and the end of each selected segment).

Consider claim 24, Kikuchi et al. teach a system for archiving selected audio/visual data, comprising: a camera constructed and adapted to record audio/visual

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data and to transmit audio/visual data while continuing to record (Fig. 30 and Fig. 40); a first storage device constructed and adapted to receive the transmitted audio/visual data from the camera and to store the recorded audio/visual data (10, 50, 30, 49, 48, 32, 34A, and 36 of Fig. 40), the first storage device having at least one memory that stores received audio/visual data, (57 of Fig. 40), a graphical user interface adapted to display the recorded audio/visual data (48 of Fig. 40), and at least one user input device coupled to the graphical user interface (49 of Fig. 40), the first storage device being further constructed and adapted to allow a user using the user inputs (1) to mark segments of the recorded audio/visual data that are deemed to be significant by the user without interrupting the recording of the transmitted audio/visual data received from the camera while the camera continues to record and transmit (Fig. 30, the user is able to mark the TV shows from the TV broadcast or the user is able to mark the scenes that are of significance to him/her in the camera recording); and to associate the marked segments with the tag data (col. 59, line 60-col. 60, line 12), and the first storage device adapted to automatically select marked segments for sending to an (col. 58, line 59-col. 59, line 9) archival storage device constructed and adapted to receive the marked segments of the recorded audio/visual data and to store the marked segments (Fig. 40 shows that the A/V data is stored onto a disc for archival).

Consider claim 26, Kikuchi et al. teach the system wherein the camera is constructed and adapted to transmit audio/visual data to the first storage device through a wired connection (there is a wire between 42 and 50 of Fig. 40).

Consider claim 27, Kikuchi et al. teach the system wherein the camera is constructed and adapted to be worn by the user (Fig. 30, the user is able to wear the camera when he/she records).

Consider claims 28 and 34, Kikuchi et al. teach a method for selecting a subset of audio/visual data for archival storage, the subset selected from an interim storage device receiving audio/visual data from a recording device during a recorded event, the interim storage device having a storage capacity for audio/video data, the total amount of audio/visual data received by the interim storage device during the recorded event exceeding the storage capacity for audio/video data for that interim storage device, the method comprising: using at least one camera to record audio/visual data (Fig. 30, the user is able to record video continuously with a camera); sending the audio/visual data from the at least one camera to the interim storage device while continuing to record the recorded event (Fig. 40); allowing a user to view recorded audio/visual data and to mark selected segments of the audio/visual data for retention while continuing to record audio/visual data (Fig. 40); archiving the marked selected segments by automatically sending the selected marked segments to archive storage after a download is initiated by a download trigger (Fig. 40 and col. 37, lines 5-14); and protecting, within the interim storage device, marked selected segments of audio/visual data that have not been sent to archive storage from being overwritten by incoming audio/visual data (Fig. 40 shows that the A/V data is stored into a disc. The temporary storage holds the audio/visual data. When the disc drive is ready to record the data stored in the temporary storage, the audio/visual is being transferred from the temporary storage to the disc drive.

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Therefore, after the audio/visual data that have been recorded by the disc drive, they are allowed to overwrite with the incoming data, and the audio/visual data that have not been recorded by the disc drive are not allowed to overwrite with the incoming data).

Consider claim 35, Kikuchi et al. teach the computer-readable medium wherein the computer-readable instruction are further interoperable with one or more computers to manage storage space available on the one or more machines so as to transfer at least the marked, selected segments of recorded audio/visual data to archival storage (col. 48, line 64-col. 49, line 2 and Fig. 51).

Consider claims 37 and 40, Kikuchi et al. teach the system wherein marked segments are sent from the first storage device to the archival storage device automatically based upon available storage space in the first storage device (Fig. 51-53).

Consider claims 38 and 41, Kikuchi et al. teach the system wherein marked segments are sent from the first storage device to the archival storage device upon user request (Fig. 40, the user turns on the device to record).

Consider claims 39 and 42, Kikuchi et al. teach the system wherein marked segments are sent from the first storage device to the archival storage device automatically after a pre-set time lapse (Fig. 40, the marked segments are sent to the first storage device after the processing the data, and the processing takes time).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 6,553,180 B1) in view of Tsubaki (US 6,701,058 B1).

Consider claim 18, Kikuchi et al. teach all the limitations in claim 15 but do not explicitly teach the method further comprising transmitting the recorded audio/visual data from the recording device to the interim storage device wirelessly.

Tsubaki teaches the method further comprising transmitting the recorded audio/visual data from the recording device to the interim storage device wirelessly (col. 7, lines 6-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transmit data from the recording device to the interim storage device wirelessly to provide user with more convenience.

Consider claim 25, Tsubaki further teaches the system wherein the camera is constructed and adapted to transmit audio/visual data to the first storage device wirelessly (col. 7, lines 6-12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHI CHIO whose telephone number is (571)272-

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9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C. C./
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621